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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,032	12/20/2001	Douglas C. Meyer	68,143-008	2259

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,032

Applicant(s)

MEYER, DOUGLAS C.

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-52 is/are pending in the application.
- 4a) Of the above claim(s) 12-31 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-11,32-37 and 39-52 is/are rejected.
- 7) ☒ Claim(s) 50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/21/05 has been entered.

Amendment

2. Applicant's submittal of an amendment on 1/21/05 was entered, wherein:

- claims 1 and 3-52 are pending;
- claims 12-31 (12/1/03) and 38 (1/21/05) have been withdrawn;
- claims 1, 32, and 37 have been amended; and
- claims 42-52 have been added.

Claim Objections

3. Claim 50 is objected to because of the following informalities: claim 50 depends from a later dependent claim (claim 51). Please verify that it was Applicant's intent for claim 50 to depend from claim 51. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3, 45, and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the step of modifying the at least one characteristic" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim (see current amendment to claim 1).

Claims 45 and 46 fail to properly depend from a parent claim. Claim 46 improperly depends from itself. Additionally, claim 45 depends from claim 46.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3-10, 32, 33, 36, 37, 39, and 44-49 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,884,300 (Brockman).

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Regarding **claim 1**, Brockman discloses a method of improving records of inventory at a facility using a computer system, comprising: assessing a plurality of current inventory records associated with the facility (see S410 and S415); responsively identifying at least one discrepancy in at least one of the current inventory records using said computer (see S420); identifying at least one inventory process associated with said discrepancy (see S430); establishing a desired performance metric associated with said process (see S410); establishing an actual performance metric of said process in response to said discrepancy (see S415); comparing said actual and desired performance metrics (see S420); and establishing a plan to correct the at least one discrepancy in response to said comparison, the plan including specific changes to the current inventory process (see S430, S435; also see column 1, lines 37-42, “self-correcting”); **[claim 3]** *as best understood in view of the 35 U.S.C. § 112 rejection set forth above*, the step of modifying the at least one characteristic includes one of adjusting and adding the at least one characteristic to the at least one inventory record (see column 1, lines 37-42); **[claim 4]** the step of establishing a plan includes the step of reviewing an inventory process of the facility (see step S775; Figure 5B); **[claim 5]** the plan includes the step of improving an inventory practice (it is inherent that any change to the inventory would be for improvement); **[claim 6]** the plan includes the step of improving an inventory methodology (it is inherent that any change to the inventory would be for improvement); **[claim 7]** the inventory process is a receiving process (see step 710; Figure 5A); **[claim 8]** the step of assessing current inventory records includes the step of performing a warehouse audit (see column 3, lines 20-27); **[claim 9]** the step of assessing current inventory records includes the step of performing a location audit (see column 3, lines 20-27); **[claim 10]** the step of assessing current inventory records includes

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the step of performing a statistical test count (see column 4, lines 22-33); [claims 32] receiving a claim (report; see Figure 2, S435) associated with a part shipment (see S710 in Figure 5A), where said part is a part type and is associated with said inventory; and analyzing said claim (inherent); and establishing a plan to correct the at least one deficiency; and [claims 33 and 39] identifying a characteristic of a part in said inventory (for example, the type of product in inventory). It is noted that limitations of **claims 36, 37, and 44-49** are similar to other claimed addressed above in detail.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 11, 42, 43, 50, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brockman in view of *Official Notice*.

Regarding **claim 11**, Brockman discloses all the limitations as set forth above but fails to explicitly disclose performing a statistical test count by defining a population and extrapolating data to achieve an inventory count.

The Examiner takes Official Notice that was old and well known in the art at the time the invention was made to extrapolate total inventory data based on a predetermined sample.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman with inventory count extrapolation as is well known in the art,

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because inventory extrapolation allows an organization to statistically determine inventory quantities in manner that is faster and more efficient than a complete physical count.

Regarding **claim 42**, Brockman fails to explicitly disclose relocating parts if the part is problem prone.

The Examiner takes The Examiner takes Official Notice that was old and well known in the art at the time the invention was made to relocate parts that may be inadvertently lost (problem prone parts).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman to relocate problem prone parts as is well known in that art, because relocating problem prone parts to new location that is likely to reduce the problems associated with the part is advantageous to the part owner.

Regarding **claim 43**, Brockman fails to explicitly disclose identifying and recovering lost inventory.

The Examiner takes The Examiner takes Official Notice that was old and well known in the art to identify and recover lost inventory in response to a discrepancy.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman to identify and recover lost parts as is well known in that art, because identifying and recovering lost parts reduces the need of the part owner to reorder replacement inventory, wherein saving money by the part owner.

Regarding **claims 50-51**, Brockman fails to explicitly disclose analyzing a claimant's claim history associated with a part.

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The Examiner takes The Examiner takes Official Notice that was old and well known in the art to review a claimant's claim history to help expedite the acceptance or rejection of the claim, wherein claimants with few prior claims are likely sending valid claims. The use of claimant history reduces the claim audit costs by the part owner.

10. Claims 34, 35, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brockman in view of U.S. Patent Application No. US 2002/0072977 (hereinafter "Hoblit").

Brockman discloses all the limitations as set forth above but fail to explicitly disclose utilizing theft prone or problem prone characteristics in inventory analysis.

Hoblit teaches that inventory analysis can be generated based on theft prone or problem prone inventory (see paragraph #0021).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman with the analysis of theft/problem prone inventory as taught by Hoblit, because considering theft/problem prone inventory will help reduce the chance of discrepancies based on theft or problems in the future.

Response to Arguments

11. Applicant's arguments filed 1/21/05 have been fully considered but they are not persuasive.

On page 12, second paragraph, Applicant argues that the prior art fails to disclose a portion of claim 1 related to identifying an inventory process that includes a performance metric.

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In column 3, lines 3-8, Brockman disclose a process metric that includes calculating the net difference between the model and the actual inventory values. If there is a discrepancy in the values, a plan to correct the problem is inherently drafted in response to the management report.

On page 12, third paragraph (also page 13, second full paragraph), Applicant argues that Brockman does not claims associated with inventory, analyzing such claims, or establishing a plan in response to such a claim. The Examiner respectfully disagrees. Brockman discloses sending management review/action (see S775) in response to discrepancies in parts shipment (see Figure 5A, 715).

On page 14, first paragraph, Applicant argues that the combination of Brockman and Hoblit fails to disclose identifying a characteristic of a part in said inventory in response to a claim associated with a shipment, where the characteristic “includes at lease [sic] one of a problem prone part, and a theft prone part,” as recited in claims 34 and 40. The Examiner respectfully disagrees. Brockman discloses management review and action (see S775) related to inventory discrepancies and Hoblit teaches that theft is a problem associated with part inventory. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman with the analysis of theft/problem prone inventory as taught by Hoblit, because considering theft/problem prone inventory will help reduce the chance of discrepancies based on theft or problems in the future.

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Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. After April 13, 2005, please call (571) 272-6786. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

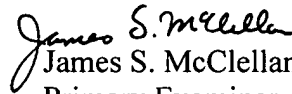
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 872-9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.


James S. McClellan
Primary Examiner
A.U. 3627

jsm
March 30, 2005